CF0000061530

(2)

APPEAL OF PRISONER

CA 2346/97

Division Bench (Criminal)

No दण्डित बन्दी नम्बर 518/56 Name आनंद दास

Father's name सुन्दर लाल सतनामी

Residence मु० [illegible] पो० [illegible] Age 45 वर्ष

Sentenced to सी० लालपुर (जबलपुर) on 24-10-97

जि० बिलासपुर (म०प्र०)

Under Section धारा 302 भा० द० वि. by चतुर्थ अपर सत्र न्या० श्री [illegible]

आजीवन कारावास रवा० खारोद बिलासपुर जिला मुंगेली

It is explained to the prisoner that if he states he wishes to be represented by a legal practitioner the appellate Court will not proceed with the case for seven days unless the legal practitioner appears earlier. If the legal practitioner does not appear within seven days he may not heard at all if the Prisoner states that he does not wish to be represented by legal practitioner the court may proceed at once with the case and will not be obliged to give a hearing to my legal practitioner who should appear.

1 Date of Application for copy of Judgement _____

2 Date on which copy received _____

3 Date on which Appeal sent 24-10-97

4 Whether the prisoner wishes to be represented or not. हां

No दण्डित बन्दी नं० 518/56 Name आनंद दास पि० सुन्दर लाल

Confined in _____ Jail जिला जेल बिलासपुर (म०प्र०)

No 272 Dated 24-10- 1997

Forwarded to the रजिस्ट्रार माननीय उच्च न्यायालय जबलपुर (म०प्र०)

together with a copy of judgement or order passed in the case for favour of transmission to the proper Appellate court.

अधीक्षक
Superintendent
जिला जेल बिलासपुर
Jail

Date of receipt in _____ Office _____

Date of receipt of record to accompany the _____

Memo of Appeal to the Appellate court _____

No _____ Dated _____ 199 _____

Forwarded to the

Date of receipt in Appellate court _____

(P. T. O.)

XI-HC-22

(24)

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

मामला क्रमांक CrA 2346/97 सन् 200

विरुद्ध

आदेश का क्रमांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

DIVISION BENCH: HON'BLE SHRI L.C.BHADOO & HON'BLE SHRI DHIRENDRA MISHRA, JJ

CRIMINAL APPEAL NO. 2346/1997

Appellant : Anand Das

Vs.

Respondent : State of Madhya Pradesh

Shri Abhay Tiwari, learned counsel for the appellant.

Shri U.N.S.Deo, learned Addl. Public Prosecutor and Shri Alok Bakshi, learned G.A. for the respondent/State.

ORAL JUDGMENT
(10.01.2006)

L.C. Bhadoo, J

By this appeal under Section 374(2) of the Cr.P.C. the accused namely Anand Das has questioned the legality of judgment of conviction and order of sentence dated 21.10.97 passed by Fourth Additional Sessions Judge, Bilaspur link Mungeli in Sessions Trial No. 42/95 whereby learned Additional Session Judge after holding accused/appellant guilty for commission of murder of Kadam Bai convicted him under Section 302 of the IPC and sentenced to undergo imprisonment for life.

2) Case of the prosecution in brief necessary for disposal of this appeal is that Rohit, son of the accused lodged a report Ex.P.4 in police station Lalpur on 18.04.94 to the effect that on that day at about 12.45

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आदेश पत्रक

मामला क्रमांक CRA 236/97 सन् 200

विरुद्ध

आदेश का क्रमांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

p.m. he left his house for taking examination, his sister Nirmala Bai came running to him and informed that their father Anand Das has attacked their mother with bricks. On hearing this he rushed towards his house and saw that his mother was lying dead on the ground. Thereafter he went to the Kotwar namely Jhagar Das and then he lodged the report. On receiving this report the Station House Officer of Police Station Lalpur registered Crime No. 40/94 under Section 302 of the IPC, proceeded to the place of occurrence, prepared panchnama of the body Ex.P.1 after giving notice Ex.P.1A to the panchas. The body of Kadam Bai was sent for post mortem examination to Primary Health Centre, Mungeli where Dr. Sanjay Agrawal P.W.16 conducted post mortem examination and prepared post mortem report Ex.P.7. The Investigating Officer got prepared the site plan from Patwari Halka No. 23 vide Ex.P.7A. After completion of investigation charge sheet was filed in the Court of Judicial Magistrate First Class, Mungeli for the commission of offence under Section 302 of the IPC who in turn committed the case to the Sessions Judge, Bilaspur, from where Fourth Additional Sessions Judge received the case on transfer for trial.

3) The prosecution in order to establish the charge against the accused examined as many as 20 witnesses. Statement of accused under Section 313 of the Cr.P.C. was also recorded in which he denied the prosecution evidence and stated that he has been falsely implicated in the crime. He further stated that his wife was suffering from epilepsy and on account of the epileptic fits she fell down on the

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आदेश पत्रक

मामला क्रमांक CRA 2346/07 सन् 200

विरुद्ध

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

ground where bricks were lying as a result of which she received injuries on her head and died.

4) Learned Additional Sessions Judge after hearing the argument of learned Public Prosecutor and counsel for the accused/appellant convicted and sentenced the accused/appellant as mentioned in paragraph 1 of this judgment.

5) We have heard Shri Abhay Tiwari, counsel for the appellant and Shri U.N.S.Deo, learned Addl. Public Prosecutor and Shri Alok Bakshi, learned G.A. for the State.

6) Learned counsel for the appellant/accused did not dispute the homicidal nature of death. Apart from that, from the evidence of Dr. Sanjay Agrawal, P.W.16 who conducted the post mortem examination on the body of Kadam Bai and the evidence of eye witness P.W. 3, Ku. Nirmala Bai who witnessed the crime it is established that the death of Kadam Bai was homicidal in nature.

7) Now so far as involvement of accused/appellant in committing the murder of Kadam Bai is concerned, P.W.3 Ku. Nirmala, the daughter of accused and the deceased has categorically stated that at about 1.00 p.m. her mother was sleeping with her younger sister on the ground and his father was sleeping on the cot, his father after tying her mother to a wooden column with the help of a piece of sari started assaulting her with bricks on her head, mouth and nose. He attacked her ten to twelve times. She started raising cries. She has

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आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

further stated that she herself witnessed the incident in which her father had attacked her mother Kadam Bai. Blood started oozing out of the injuries. She immediately rushed to call her brother who had gone to take the examination. Her mother died spontaneously. P.W.9 Rohit has corroborated the above fact and stated that on the fateful day at about 1.00 p.m. he left his house for taking the examination and by the time he reached near a well of the village, his sister came crying and said that their father had murdered their mother. On hearing this, Rohit Kumar returned back to the house and informed the Kotwar Jhagar Das and thereafter lodged the report Ex.P.4.

8) Jhagar Das who has been examined as P.W.4 has corroborated the above facts and stated that after hearing from Rohit Kumar he went to the house of Anand Das and saw that Kadam Bai was lying dead. On enquiry Anand Das informed the Kotwar that he had committed the murder of his wife by attacking with bricks. Teeth were broken and blood was oozing out of the injuries. He saw that brick bats were lying near the body. Therefore, from the evidence of Ku.Nirmala Bai, Rohit Kumar and Jhagar Das it is established that the accused was the author of murder of Kadam Bai. Accused made extra judicial confession before P.W.4 Jhagar Das, P.W.6 Banshi Lal and P.W.10 Lalji.

9) Learned counsel for the accused/appellant argued that the prosecution has not been able to establish the motive of the crime and intention of the accused/appellant to commit murder of his wife. He further submits that on account of sudden quarrel accused

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आदेश पत्रक

मामला क्रमांक CRA 2341/97 सन् 200

विरुद्ध

आदेश का दिनांक, आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

attacked his wife and therefore the offence against the appellant does not travel beyond Section 304 Part II of the IPC.

10) Shri U.N.S.Deo, learned Additional Public Prosecutor and Shri Alok Bakshi, learned Govt. Advocate supported the impugned judgment of the trial Court.

11) In order to appreciate the arguments advanced by learned counsel for the accused/appellant we have perused the evidence on record. P.W.3 Ku. Nirmala is the daughter of the deceased and the accused and in her evidence nothing has been brought on record which shows that deceased in any way enraged the accused. The intention of the accused can be gathered from the manner in which the offence was committed, part of the body where injuries were inflicted and nature of the weapon used. Perusal of the post mortem report Ex.P.7 shows that as many as eight injuries were caused by the accused on the vital part of the body of the deceased Kadam Bai i.e. on head. He attacked the deceased with bricks as a result of which fracture was caused in the nasal bone of the nose which depressed inside, two teeth were broken. There was fracture on the frontal bone as well as right mandible. Even the eye ball was coming out; therefore nature of the injuries mentioned in the post mortem report indicates the intention with which the accused brutally inflicted serious injuries on the head of Kadam Bai as a result of which she died spontaneously. The doctor who conducted the post mortem examination has opined that cause of death was Nurogenic shock due to the injuries caused to the vital organ i.e. brain.

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उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

मामला क्रमांक CrA 2346/07 सन् 200

विरुद्ध

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	12) In view of above, we are of the opinion that there is no merit in the arguments advanced by the counsel for the appellant and we do not find any illegality and infirmity in the impugned judgment of conviction and sentence passed by the trial Court. In the result the appeal is devoid of merit and the same is liable to be dismissed. It is accordingly dismissed. **Sd/-** **L.C. Bhadoo** **Judge** **Sd/-** **Dhirendra Mishra** **Judge**	

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